

CITY OF AURORA
OHIO
BOARD OF ZONING APPEALS
Meeting Minutes
February 10, 2010

The Aurora Board of Zoning Appeals met in a regularly scheduled meeting Wednesday, February 10, 2010 in the Council Chambers at City Hall. The meeting was called to order at 7:30 p.m. by Chairman Don Arbuckle.

ROLL CALL:

Present: Scott Friedler
Peter French
Bernard McCarrell
Don Arbuckle
Absent: Terese Fennell
Tony Gramm
Also Present: Chad Murdock, Legal Advisor
Denise Januska, City Planner
Susan Dombeck, Clerk

ORGANIZATIONAL:

MOTION: To nominate Don Arbuckle for Chairman for 2010.

Mr. Friedler moved for approval; Mr. McCarrell seconded.

MOTION: To close the nominations for Chairman.

Mr. McCarrell moved for approval; Mr. Friedler seconded, and the motion carried, 4-0, on a voice vote.

MOTION: To nominate Terese Fennell for Vice Chairman for 2010.

Mr. French moved for approval; Mr. McCarrell seconded.

MOTION: To close the nominations for Vice Chairman.

Mr. McCarrell moved for approval; Mr. Friedler seconded, and the motion carried, 4-0, on a voice vote.

MOTION: To nominate Susan Dombeck for Clerk for 2010.

Mr. Friedler moved for approval; Mr. French seconded.

MOTION: To close the nominations for Clerk.

Mr. McCarrell moved for approval; Mr. Friedler seconded, and the motion carried, 4-0, on a voice vote.

WORK SESSION:

Mr. Arbuckle explained the procedure for the work session and meeting.

OLD BUSINESS:

CHELSEA PROPERTY GROUP, 549 SOUTH CHILLICOTHE [0909014]

Two variances from the Aurora Codified Ordinances. Those variance requests are:

- 1) *From Section 1159.08(c)(5)(B) which requires that the sign may only be posted on the wall of the principle building and not on a light pole*
- 2) *From Section 1159.08(c)(5)(D) which requires that the proposed sign may only be displayed for fourteen (14) consecutive days, four (4) times a year with at least thirty (30) days between displays, not continuously*

Mrs. Januska explained that she spoke with Claude Hopkins of Aurora Premium Outlets and the applicant agreed to have this item removed from the agenda at this time. They will consider submitting a new application in the future.

NEW BUSINESS:

C. & M. KIMES, 239 NORTH PINE COURT [1001001]

A variance from Section 1155.01, Table 1155.01 of the Aurora Codified Ordinances to allow an addition with a rear setback of 34 feet instead of the minimum required 40 foot setback

Mr. Arbuckle explained the variance request.

NETWORK TECHNOLOGIES, 1275 DANNER DRIVE [1001002]

A variance from Section 1159.05(b) of the Aurora Codified Ordinances to allow a monument sign with changeable copy

Mr. Arbuckle read aloud the requested variance.

MISCELLANEOUS:

There was no miscellaneous discussion.

MEETING:

Mr. Murdock gave the oath to the staff and audience members that planned to speak during the meeting.

AMENDMENTS TO THE AGENDA:

There were no amendments to the agenda.

APPROVAL OF MINUTES:

MOTION: To approve the minutes of the December 9, 2009 meeting as printed.

Mr. French moved for approval; Mr. Arbuckle seconded, and the motion carried, 3-0-1, on a roll call vote.

Yeas: Mr. French, Mr. Arbuckle, Mr. McCarrell
Nays: None
Abstentions: Mr. Friedler

OLD BUSINESS:

CHELSEA PROPERTY GROUP, 549 SOUTH CHILLICOTHE [0909014]

Two variances from the Aurora Codified Ordinances. Those variance requests are:

- 3) From Section 1159.08(c)(5)(B) which requires that the sign may only be posted on the wall of the principle building and not on a light pole*
- 4) From Section 1159.08(c)(5)(D) which requires that the proposed sign may only be displayed for fourteen (14) consecutive days, four (4) times a year with at least thirty (30) days between displays, not continuously*

Mr. Arbuckle said that this item is to be removed from the table and then the agenda.

MOTION: To remove this item from the table.

Mr. Friedler moved for approval; Mr. French seconded, and the motion carried, 4-0, on a roll call vote.

Yeas: Mr. Friedler, Mr. French, Mr. McCarrell, Mr. Arbuckle
Nays: None

MOTION: To remove this item from the agenda.

Mr. Friedler moved for approval; Mr. McCarrell seconded, and the motion carried, 4-0, on a roll call vote.

Yeas: Mr. Friedler, Mr. McCarrell, Mr. French, Mr. Arbuckle
Nays: None

NEW BUSINESS:

C. & M. KIMES, 239 NORTH PINE COURT [1001001]

A variance from Section 1155.01, Table 1155.01 of the Aurora Codified Ordinances to allow an addition with a rear setback of 34 feet instead of the minimum required 40 foot setback

Joel Hoar, of Payne and Payne Builders, represented the applicant. He stated that the applicant decided to convert the existing garage to additional living space. He added that due to the size of the existing garage, the applicants often had to park their vehicles outside of the garage because of children's items that needed to be stored inside. Mr. Hoar explained that part of the project is to include a 22' by 32' addition off the back of the house to be used as a three-car garage. A breezeway is to connect the garage with the existing house. He said that within the three-car garage would be a doorway going to the backyard. Above the three-car garage would be a bonus room for additional entertaining.

Mr. Hoar told the members that when they prepared the documents they thought that the setbacks were different. After the plans were submitted and reviewed they were informed that the proposed setbacks did not meet the code requirements. The encroachment of one corner of the garage on the rear property line is approximately 5.7 feet, a 34 foot setback instead of 40 feet. The other rear corner of the building will be 50 feet from the line.

Mr. Hoar stated that the lot is a unique shape on a cul-de-sac. He said that they considered other options when they learned a variance would be necessary, but every option would encroach on the outdoor living area that includes many mature pine trees. He then explained the layout of the proposed addition. Mr. Hoar did not feel the plan would pose any concerns regarding service from the street. He then explained a few of the options considered and the problems they would encounter.

Mr. Friedler asked that the applicant make a correction on the plan by labeling the street behind the house as West Pioneer Trail instead of Bissell Road.

Mr. Arbuckle stated that none of the surrounding property owners responded to the notices sent regarding this request. He raised the issue of screening and landscaping since it will be closer to West Pioneer Trail. Mr. Hoar assured him that there have been discussions on future plans for landscaping.

Mr. Arbuckle began a conversation on the existing and future construction and the layout of the rooms.

Referring to the variance checklist, Mr. Arbuckle stated that there would be no threat to the economy of the property if the variance were granted or denied. Mr. French pointed out that the variance is not substantial considering that the required setback is less than 6 feet from the proposed location and the lot has an unusual shape.

Mr. Arbuckle stated that there would be no change to the character of the neighborhood nor would the government services be affected. He said that the property owner may not have been aware of the required setback when purchasing the property. As to whether the problem

can be handled in another way, having the proposed garage made smaller would still leave the owner with the problem of storage for vehicles, which makes the addition almost pointless.

Regarding the spirit and intent behind the zoning regulations, Mr. Arbuckle wondered if there would be substantial justice done if the variance were granted. He said he felt that it would be a just thing to do. There were no comments made by the other members.

MOTION: To grant to Chris and Monica Kimes for the property at 239 North Pine Court, in a R-4 district, a 6 foot variance from Section 1155.02(c) and the 1155.02 Table of the Aurora Codified Ordinances, which prohibits structures within the 40 foot rear yard setback, to allow the construction of an attached garage, as shown on the application.

Mr. Friedler moved for approval; Mr. French seconded, and the motion carried, 4-0, on a roll call vote.

Yeas: Mr. Friedler, Mr. French, Mr. McCarrell, Mr. Arbuckle
Nays: None

NETWORK TECHNOLOGIES, 1275 DANNER DRIVE [1001002]

A variance from Section 1159.05(b) of the Aurora Codified Ordinances to allow a monument sign with changeable copy

Lee Rodenfels, of Adam Signs, represented the application. He stated that Network Technologies currently has a monument sign on their property with 3D lettering on it. They want to remove the 3D lettering and replace it with an electronic message center sign which would be operated in the same fashion as the two at the Bertram. The sign would have copy only and would be changed within the same guidelines that have been set up for the Bertram.

Mr. Rodenfels introduced Pam Sykes, the Administrative Assistant, from Network Technologies and said they were both available to answer questions.

Mr. Arbuckle explained that other variances granted do not set a precedent. Rather, each request is reviewed individually and really has no relevance to other applications.

Per an inquiry by Mr. Arbuckle, Ms. Sykes explained that their customers ranged from government entities to local businesses and businesses across the country and overseas. Regarding customers that visit the local facility, Ms. Sykes explained that they do not have any customers that visit on a regular basis. However, they do have candidates that are asked to go to the facility, local customers to place orders or pick up items, and vendors that visit for purchases and sales. The main product line is computer peripherals from extenders to environment monitoring systems to rack mounted units.

Mr. Arbuckle thought that a minimum amount of customers actually visit the facility. He felt that the purpose of movable copy signage was to identify the property to improve impulse sales. He did not think this business has the dynamics for that.

Ms. Sykes responded that one of the main reasons for the sign is that when people do drive by they would notice the company name more so than with the current signage. She said they want to try to attract higher level candidates for employment. Per inquiries by the members, Ms. Sykes explained that the company is an OEM and does all of its product design and assembly in-house. She gave further details on the company. There was additional conversation on some of the open positions at the company that would be listed on the sign.

Ms. Sykes said she was not aware of any discussion regarding the address being on the sign continuously. Mr. Friedler pointed out that emergency services may have some difficulty if the address is not easily noticed. Ms. Sykes stated that the address would be removed from only one side of the sign.

A conversation followed on the placement of the sign and the visibility at that location. Also discussed was whether the sign was really needed to attract business and candidates for employment.

Resident George Mazzaro noted that the site is in an industrial area and there is a lack of signage in that area to help identify the buildings. He felt that the request is reasonable for an industrial area that is growing.

Mr. Arbuckle asked if the sign is to be lighted with changeable copy and Ms. Sykes confirmed that it would.

Mr. Friedler asked for the capabilities of the sign to be installed. Mr. Rodenfels responded that there is a software package, which is included with the sign, that has graphics. He then explained the different types of graphics that could be shown, although he stressed that it is not full video, and noted that the applicant does not plan to use all of its capabilities.

Mr. Arbuckle asked Mrs. Januska for comments, and she replied that if the board members are in favor of allowing the variance there are some conditions that should be considered. She explained that the sign would need to remain static for a certain time period, it should have a complete message on the screen rather than scrolling a message, possibly shut off time, hours of operation, and no animation, scrolling, or moving lights.

Due to an inquiry by Mr. Arbuckle, Ms. Sykes said that they would be happy to work with guidelines and that she did not think the conditions would be an issue.

Mr. McCarrell referred to the current sign's illumination and wondered if it is on all night. Ms. Sykes verified that it is on throughout the evening. Mr. Rodenfels did not know how bright the new sign would be compared to the current one. After additional conversation, Mr. Rodenfels determined that the new sign would be brighter than the current sign. More discussion followed.

Mr. Arbuckle wondered if Ms. Sykes had the authority to agree to the conditions proposed, and she replied that she has a signed power of attorney on file. Mrs. Januska listed the four

conditions as follows: 1) the message is to remain static for a period of time, e.g., a message to remain on the screen for five minutes; 2) possible shut off times and hours of operation; 3) a complete message on one screen; and 4) no animation, flashing or moving lights. Ms. Sykes confirmed that the conditions were reasonable. She stated that there was no intention to scroll messages, but more of a message on the screen for awhile to be followed by a new message, so she felt that being able to scroll messages would not be an issue.

Referring to the length of time for messages to be displayed, Mr. Friedler asked Mrs. Januska for the range of time for display. Mrs. Januska replied that her research found that the times varied from 8 seconds to 10 minutes for various communities. A brief conversation on times of display in some cities followed.

Per an inquiry by Mr. Arbuckle, Ms. Sykes said that having a defined time for message display would not be an issue. Additional discussion followed, and Ms. Sykes told the members that their hours of operation are from 7:30 a.m. to 1:30 a.m. Mr. Friedler suggested that, because shift times can change, the sign be allowed on 30 minutes before the first shift starts and until 30 minutes after the last shift ends.

Ms. Sykes explained that, since the business office closes at 6:00 p.m., they could have the sign show only the name and address on both sides after 6:00.

Mr. Arbuckle began a review of the variance checklist. He noted that the addition of this sign would not improve the sales much since the sign is more for convenience of employment ads or directional information. He said he did not see how it would yield any economic return if the request was approved.

Mr. Arbuckle felt that the variance is substantial and the character of the neighborhood would be changed. Mr. French agreed that the variance is substantial, but pointed out that this type of sign would probably become more prevalent in the future. Mr. McCarrell said that the variance is very much out of the code, but agreed with Mr. French that it is modern technology.

Regarding any effect on government services, Mr. Arbuckle mentioned that there was a discussion on lighting and the address being visible. He said it is a possibility that emergency vehicles and services could be affected. Mr. French stated that the emergency vehicles would be traveling from the fire station up the road and would go south on SR 43, turn on to Lena and south on Danner and would see the brick side of the sign.

Due to a question by Mr. Arbuckle, Ms. Sykes said that the company moved in about 1993 or 1994. Mr. Arbuckle didn't feel that they would be aware of the zoning requirements for this type of sign at that time, and Ms. Sykes confirmed that.

Mr. Arbuckle referred to finding a solution through some other method, and his only suggestion for better identification would be to move the sign to a different angle and improve lighting. Mr. French stated that at this time of year it can be seen, but when the trees are full it would not be as visible. Mrs. Januska noted that it would have to be ten feet from the right-of-way. Mr. Arbuckle commented that it would not have to be closer to the road, just angled toward

their driveway to improve the line of sight.

Mr. Arbuckle raised the subject of the spirit and intent behind the zoning regulation, and said his concern is that this is just the beginning and will progress in that area.

As for the suitability of the sign to its proposed location, Mr. Arbuckle said that it would be suitable. He referred to whether the use to which the sign relates could not be properly identified without the variances and said that there is an alternative, which is to change the angle of the existing sign. He wondered if that alternative was checked for possibility and cost.

Ms. Sykes, referring to the sight line, did not think they could move it within the requirements and have it in a better sight line.

Mr. French asked Mrs. Januska what would happen if this variance was denied and the code was then changed to allow this type of sign. Mrs. Januska replied that they would have to reapply and receive a permit, without needing a variance. Per an inquiry by Mr. French, Mrs. Januska explained that the staff hoped to address the sign code last year. She said that she does have much of it written, but the city is trying to decide if they want to put together a committee and call the Chamber of Commerce in, which would then make the task take much longer to do. She explained that when you include other outside entities, and then Council, it could take a very long time. Mrs. Januska stated that this type of sign would be added because it is a technology that should be addressed. Mr. Arbuckle said that for the variance request submitted, it should be addressed as it exists now.

Mr. Friedler referred to the use not being properly identified without the variance and stated that their use of the sign would not necessarily be for the identification of the business but for additional information that would be difficult to distribute without the sign, e.g., trying to attract higher quality candidates. He felt they were looking for a way to transfer information to those people driving by. A short discussion followed.

MOTION: To grant to Network Technologies, for the property at 1275 Danner Drive, in an I-1 district, a variance from Sections 1159.05(b) and (f) of the Aurora Codified Ordinances, which prohibits changeable copy and flashing displays on ground signs, to allow LED message display on the south side of their ground sign as shown on the application, on the following conditions: 1) that the message remain static for at least ten minutes; 2) that the sign operation be limited to 30 minutes before shift to 30 minutes after shift; 3) one screen, no scrolling; and 4) no animation.

Mr. Friedler moved for approval; Mr. McCarrell seconded, and the motion was **DEFEATED**, 1-3, on a roll call vote.

Yeas: Mr. McCarrell

Nays: Mr. Friedler, Mr. French, Mr. Arbuckle

Mr. Arbuckle explained the options left to the applicant.

MISCELLANEOUS:

Mrs. Januska explained that the code has changes, one on the height of the buildings, but most of it was just clarifications or cleaning up of the existing code.

Mr. Mazzaro suggested that when one or more members is not in attendance the applicant be given the choice of waiting until the next meeting when all members would be present. Additionally, he felt that any member voting no on a request should give their reasons. Mr. Arbuckle explained that the review of the checklist covers the denials. A conversation began on informing the applicant of their choice to wait for a full board, when a member is absent, before a vote is taken on their request. It was decided to give all applicants that option in the future.

ADJOURNMENT:

Ms. Friedler moved to adjourn at 8:36 p.m.; Mr. French seconded, and the motion carried, 4-0, on a voice vote.

Donald Arbuckle - Chairman

Susan Dombeck - Clerk
AUDIO TAPE ON FILE